

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COVENTRY HEALTH CARE OF
NEBRASKA, INC., a Nebraska domestic
corporation;

Plaintiff,

vs.

NEBRASKA DEPARTMENT OF
ADMINISTRATIVE SERVICES;
NEBRASKA DEPARTMENT OF
HEALTH & HUMAN SERVICES; DOUG
PETERSON, in his official capacity as
Attorney General of the State of Nebraska;
BYRON DIAMOND, in his official
capacity as Director, Nebraska Department
of Administrative Services; COURTNEY
PHILLIPS, CEO of the Nebraska
Department of Health and Human Services;
CALDER LYNCH, in his official capacity
as Director of the Nebraska Department of
Health and Human Services Division of
Medicaid and Long Term Care; and BO
BOTELHO, in his official capacity as
Acting Material Division Administrator;

Defendants,

and

NEBRASKA TOTAL CARE, INC.;
WELLCARE OF NEBRASKA, INC.; and
UNITEDHEALTHCARE OF THE
MIDLANDS, INC.;

Intervenors.

4:16CV3094

ORDER

AMERIHEALTH NEBRASKA, INC., a
Nebraska corporation;

Plaintiff,

vs.

NEBRASKA DEPARTMENT OF
ADMINISTRATIVE SERVICES, a
political subdivision of the State of
Nebraska; NEBRASKA DEPARTMENT

4:16CV3100

ORDER

OF HEALTH & HUMAN SERVICES, a political subdivision of the State of Nebraska; BYRON DIAMOND, Director of the Nebraska Department of Administrative Services; FRANCIS BOTELHO, Administrator of the Nebraska Department of Administrative Services Materiel Division Administrator; COURTNEY N. PHILLIPS, Chief Executive Officer of the Nebraska Department of Health and Human Services; and CALDER A. LYNCH, Director of the Nebraska Department of Health and Human Services Division of Medicaid and Long-Term Care;

Defendants,

and

WELLCARE OF NEBRASKA, INC.;
NEBRASKA TOTAL CARE, INC.; and
UNITEDHEALTHCARE OF THE
MIDLANDS, INC.;

Intervenors.

This matter is before the Court on Plaintiff Coventry Health Care of Nebraska, Inc.'s Notice of Voluntary Dismissal Without Prejudice (Filing No. 79 in Case No. 4:16CV3094 and Filing No. 73 in Case No. 4:16CV3100) and Plaintiff AmeriHealth Nebraska, Inc.'s Notice of Dismissal (Filing No. 80 in Case No. 4:16CV3094 and Filing No. 74 in Case No. 4:16CV3100). Also pending before the Court are Motions to Dismiss for Failure to State a Claim filed by the defendants (Filing No. 59 in Case No. 4:16CV3094 and Filing No. 51 in Case No. 4:16CV3100); Intervenor WellCare of Nebraska, Inc. (Filing No. 45 in Case No. 4:16CV3094 and Filing No. 37 in Case No. 4:16CV3100); Intervenor United Healthcare of the Midlands, Inc. (Filing No. 51 in Case No. 4:16CV3094 and Filing No. 42 in Case No. 4:16CV3100); and Intervenor Nebraska Total Care, Inc. (Filing No. 54 in Case No. 4:16CV3094 and Filing No. 45 in Case No. 4:16CV3100).

The plaintiffs each move for dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), which permits a plaintiff to “dismiss an action without a court order . . . before the opposing party serves either an answer or a motion for summary judgment.” Because the defendants and intervenors have not “filed an answer or a motion for summary judgment, the voluntary dismissal[s] must be given effect.” *Safeguard Bus. Sys., Inc. v. Hoeffel*, 907 F.2d 861, 864 (8th Cir. 1990). As such,

IT IS ORDERED:

1. Coventry Health Care of Nebraska, Inc.’s Notice of Voluntary Dismissal Without Prejudice (Filing No. 79 in Case No. 4:16CV3094 and Filing No. 73 in Case No. 4:16CV3100) is approved.
2. AmeriHealth Nebraska, Inc.’s Notice of Dismissal (Filing No. 80 in Case No. 4:16CV3094 and Filing No. 74 in Case No. 4:16CV3100) is approved.
3. The above-captioned consolidated cases are voluntarily dismissed without prejudice.
4. The Motions to Dismiss for Failure to State a Claim filed by the defendants and intervenors (Filing Nos. 45, 51, 54, and 59 in Case No. 4:16CV3094 and Filing Nos. 37, 42, 45, and 51 in Case No. 4:16CV3100) are denied as moot.

Dated this 6th day of September, 2016.

BY THE COURT:

s/ Robert F. Rossiter, Jr.
United States District Judge